

REMARKS

With the above amendments, claims 1-13, 15-17, 19, and 20 remain in the application. Claims 14 and 18 have been canceled to expedite prosecution of the application.

Double Patenting

Claims 1-20 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,777,258.

Applicants will file a terminal disclaimer when all of the pending claims are deemed allowable.

Claim Rejections -- 35 U.S.C. § 112

Claims 18-20 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. According to the last office action, claim 18 is indefinite for reciting formation of an air gap without recitation of an overlying layer. The rejection of claim 18 has been rendered moot by its cancellation.

Claim Rejections -- 35 U.S.C. § 102

Claims 9-13 and 17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,998,824 to Lee ("Lee").

Claim 9 has been amended to recite the formation of a sacrificial material over the metal layer and the etching of the sacrificial material using the metal layer as an etch stop. It is respectfully submitted that Lee does not disclose or suggest nitridization of a metal layer employed as an etch stop in the etching of a sacrificial layer.

Claims 10-13 depend on claim 9 and are thus patentable over Lee at least for the same reasons that claim 9 is patentable.

Claim 17 is patentable over Lee at least for reciting a metallic electrode used as an etch stop in the etching of a sacrificial layer, where the metallic electrode comprises titanium nitride by thermal processing of titanium in the presence of ammonia. It is respectfully submitted that Lee does not disclose or suggest such an etch stop for etching a sacrificial layer.

Conclusion

For at least the above reasons, it is believed that claims 1-13, 15-17, 19, and 20 are in condition for allowance upon filing of a terminal disclaimer. The Examiner is invited to telephone the undersigned at (408)436-2112 for any questions.

If for any reason an insufficient fee has been paid, the Commissioner is hereby authorized to charge the insufficiency to Deposit Account No. 50-2427.

Respectfully submitted,
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